

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes
Bill Leonard, Member
State Board of Equalization*

January 8, 2007

QUOTE OF THE WEEK

"Don't measure yourself by what you have accomplished, but by what you should have accomplished with your ability." John Wooden, UCLA basketball coach

UNDER THE DOME

*****Please Join Me for My Swearing-In*****

Please join me for my swearing-in ceremony on Monday, January 8 at 3 p.m. in the Board of Equalization meeting room at the BoE headquarters building, 450 N Street in Sacramento. Following the ceremony, there will be a reception at Il Fornaio restaurant in the Wells Fargo building, 400 Capitol Mall. If you are not able to be physically present with us, you can listen to the proceedings live at:

<http://www.visualwebcaster.com/event.asp?id=37303>

A recording of the event will be available at the same link for 90 days.

In my second term, I look forward to working to consolidate the tax bureaucracy, fighting to expand taxpayer rights and bringing the benefits of technology to the BoE and taxpayers.

*****Middle Income Families Going, Going, Gone*****

The recent story on the out-migration of families based on a study from the California Department of Finance shows only a part of the picture. Yes, the state's growth is slowing but a careful reading shows a different picture. Middle income working families and retirees with pension income are leaving -- in droves. This is masked by the numbers of illegal immigrants and by the childbirths from those left behind. But the whole story is that this mix means that apart from the super rich who populate the California coast line, there are almost no personal income taxpayers left in California. And from this data it appears that those few who are left in California will exit as soon as they can start collecting their pensions. Federal census figures show that for the period between 2000-2004, the only state that had more domestic out-migration was New York, which is another high tax, high regulation state.

Consequently, I predict that California income tax revenue will never grow again and may even decline.

The Department of Finance release is here:

http://www.dof.ca.gov/HTML/DEMOGRAP/ReportsPapers/Estimates/E2/documents/E-2_Press_Release_Jul06.doc

Story from the Sacramento Bee:

<http://www.sacbee.com/111/story/96155.html>

*****Hidden Taxes*****

The new buzz words in political debate are “hidden taxes.” In almost every case, this does not refer to secret payments to the government. The more accurate definition of the phrase would be “cost shifting.” Because lots of people use health care services without paying for those services, hospitals and doctors are forced to charge the rest of us more to cover their expenses. But cost shifting goes on everywhere. We all pay more for products to cover the extra costs businesses have due to shoplifting or other expenses.

So, if it is true that this hidden tax is a bad thing, then what is the solution? Apparently the solution is a not-so-hidden-tax. Instead of paying extra to health care to providers, I will pay more in taxes and then the government will give some subsidy to these providers to pay for the people who do not pay. That might work if the next step is for health care providers and insurers to lower my costs since I am no longer paying a hidden tax. Care to bet on the odds of premiums and out-of-pocket costs going down?

*****New Tax Laws for 2007*****

Californians became subject to hundreds of new laws that went into effect on January 1st. Perhaps you read about “Move Over, Slow Down” law the makes it illegal to approach within 500 feet of an emergency vehicle or tow truck with flashing lights that is on the side of the road; it requires drivers to slow down or move at least one lane away from the vehicle. But beyond flashy new laws like that one, most new laws do not get covered by the papers, particularly the ever-so-exciting changes to your taxes. Here are some of the new tax laws you should be aware of:

- 1) SB 1449 creates a new 40% penalty for retailers who collect sales and use tax but do not pay it to the state in a timely manner. That is a four-fold increase in the penalty.
- 2) AB1418 requires the BOE and FTB to publish lists of the 250 largest tax delinquents who owe more than \$100,000.
- 3) AB 1890 gives disaster victims five years to rebuild a damaged home or purchase a comparable home while protecting their base-year property values.
- 4) AB 2239 provides that vehicles, including RVs, brought into the state solely for repair or warranty service for less than 30 days are exempt from the 12-month use tax rule.

TAX TIPS

*****CA Makes Life Difficult for Taxpayers*****

The New Year's Day edition of Spidell's California Tax newsletter began with this: "With one minor exception, California does not conform to any of the provisions of The Tax Relief and Health Care Act of 2006, and the mood in Sacramento is moving even further away from conformity to HSAs (health savings accounts)." The new lawmakers who took up offices in Sacramento this week should take a serious look at why the state consciously chooses to make life so difficult, and taxes higher, for California taxpayers. There is much bloviating about increasing efficiency in government this very simple way to accomplish that is ignored.

Consider Spidell's example of the termination of a health savings account: "In order to establish a HSA, Ron's employer, with a home office in Colorado, terminates its [Health Reimbursement Account] and transfers Ron's \$2,000 balance into an HSA. Unfortunately, Ron is a California resident. The \$2,000 is tax-free for federal purposes but is taxable income subject to income and payroll tax withholding for California purposes. The rollover is treated as a distribution to Ron for California purposes."

If California were to conform with these federal tax laws, the taxes on Californians, including Ron, would go down. We should simply make those changes to make filing taxes easier for our residents. When taxes become simpler, voluntary compliance increases and government efficiency improves. These goals are more important than collecting a few dollars on HRA transfers.

*****Refund Right*****

The good news: a court has ruled that a tax you have been paying for 30 years, although you objected to it, is unconstitutional. The bad news: the appellate court rules that even though the tax was unconstitutional, you are not entitled to a full refund.

This is the situation in which Macy's find itself with its battle against the City and County of San Francisco. I have weighed in with an amicus brief to the court asking that Macy's be given back all of the illegal taxes it paid to San Francisco, despite the government's assertion that it simply cannot afford to pay the refund. Can you imagine the court or government's response if a taxpayer said, "Gee, I know what I did was unconstitutional and that I owe the money, but I just can't pay it"? Exactly, and that should be Macy's response as well.

But the bigger lesson here for all of us hearkens back to the founding of this nation. If you do not fight for your rights, you can lose them. If it were not for Macy's being willing to battle what they knew to be wrong, San Francisco would still be imposing this tax even though they knew it is wrong. An unconstitutional law or tax can continue for a

long, long time and someone has to stand up and fight against it. I commend Macy's for doing so and I hope they will continue to fight for the full refund they are rightfully due.

MISCELLANY

A Good Read

As a student of history, I have written before that recent events cannot be judged by the generation living them. The impact of such events and reactions to them need to be evaluated by those yet unborn who can understand the context of our actions today by their results decades and centuries down the line. However, that does not preclude us from documenting today's events in a manner that future historians can use to make their judgments. Thus, I recommend "Coast of Dreams: California on the Edge, 1990-2003" by Kevin Starr. Starr is the former State Librarian and prolific Golden State historian. His picture of our most recent and quite tumultuous decade is enlightening, even for those of who helped lead the state through it. He paints portraits of everyday Californians who we all know—the surfer girl/model, the struggling young parents without high school diplomas, the police officers fighting gang violence. He describes the diversity of our state in a more complex way than you have probably thought about it, sussing out not just the intricacies of illegal immigration, but rehearsing the history of the variety of Asian cultures represented in California.

He talks of earthquakes, fires, floods and the environment, as well as electricity, prison construction and school performance. Starr's writing is rich and poignant so that even though you have lived through these events and headlines, you experience them in a unique way through his words. He leaves us with this ponderous thought: "Was California the Great Exception, as Carey McWilliams had described it—a better place for ordinary people—or had that belief gone by the wayside? ... [T]he California of 1990-2003 had grown incredibly complex, competitive, and cold, in comparison to the dreamy lotus land that had once been imagined, even believed in, by many... California had become ... a reality in search of the myth that it had once believed in, had been lost, but never fully repudiated." Starr's book is a challenge to those who lead and live in the Golden State today, a challenge to recapture the dream or create a new one.

New Citizenship Test

To see the official answers to the pilot U.S. citizenship questions below, go to <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=dcf5e1df53b2f010VgnVCM1000000ecd190aRCRD>

41. How many full terms can a President serve?
42. Who signs bills to become laws?
43. Who vetoes bills?
44. What is a veto?
45. What does the President's Cabinet do?

46. Name two Cabinet-level positions.
47. What Cabinet-level agency advises the President on foreign policy?
48. What does the judicial branch do?
49. Who confirms Supreme Court justices?
50. Who is the Chief Justice of the United States?

BOE AND LEGISLATIVE DATES

January 8, 2007 --- Swearing-in of new state Constitutional officers.

January 9, 2007 --- Governor delivers State of the State Address.

January 10, 2007 --- Budget Bill must be submitted by Governor (Art. IV, Sec. 12 (a)).

January 15, 2007 --- Rev. Martin Luther King Jr. holiday.

January 26, 2007 --- Last day for legislators to submit bill requests to the Office of Legislative Counsel.

January 31, 2007 --- Board of Equalization meets in Sacramento.

February 1, 2007 --- Board of Equalization meets in Sacramento.

February 12, 2007 --- Abraham Lincoln's Birthday.

February 19, 2007 --- George Washington's Birthday observed.

February 23, 2007 --- Last day for bills to be introduced (J.R. 61(a)(1), J.R. 54(a)).

February 27-28, 2007 --- Board of Equalization meets in Culver City.

NOTABLE DATES/ HISTORY

January 8, 1815 --- The Battle of New Orleans was fought.

January 8, 1971 --- 29 pilot whales beached themselves and died on San Clemente Island, CA.

January 9, 1799 --- The income tax was introduced in the United Kingdom.

January 9, 1847 --- The first San Francisco newspaper, the California Star, was published.

January 9, 1857 --- A 7.9 earthquake shook Fort Tejon, CA.

January 9, 1908 --- Muir Woods National Monument, CA was established.

January 10, 0049 B.C. --- Julius Caesar crossed the Rubicon, invading Italy.

January 10, 1776 --- Thomas Paine published “Common Sense” advocating American independence from Great Britain and proclaiming that “the cause of America is in a great measure the cause of all mankind.”

January 11, 1935 --- Amelia Earhart made the first solo flight from Hawaii to California.

January 12, 1946 --- The NFL champion Cleveland Rams were given permission to relocate to Los Angeles.

January 12, 1995 --- The murder trial of O.J. Simpson began in Los Angeles.

January 13, 1799 --- President George Washington added two stars and two stripes to the U.S. flag, to recognize the admission of Vermont and Kentucky to the Union. (The new stripes were later removed, restoring the total to 13.)

January 13, 1982 --- An Air Florida 737 crashed into a bridge over the Potomac River in Washington, D.C. after takeoff, killing 78 people.

January 14, 1784 --- The Treaty of Paris was ratified by Congress, officially ending the Revolutionary War.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate’s office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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